

AN ACT

RELATING TO INSURANCE; REVISING REQUIREMENTS FOR BAIL BONDSMAN LICENSE, PROHIBITED PRACTICES OF BAIL BONDSMEN AND GROUNDS FOR DENIAL, SUSPENSION, REVOCATION AND REFUSAL TO CONTINUE BAIL BONDSMAN LICENSE; AMENDING THE BAIL BONDSMEN LICENSING LAW; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-51-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 928) is amended to read:

"59A-51-1. SHORT TITLE.--Chapter 59A, Article 51 NMSA 1978 may be cited as the "Bail Bondsmen Licensing Law"."

Section 2. Section 59A-51-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 931, as amended by Laws 1999, Chapter 272, Section 25 and also by Laws 1999, Chapter 289, Section 38) is amended to read:

"59A-51-4. QUALIFICATIONS FOR LICENSE.--Applicants for license as bail bondsman or solicitor pursuant to the provisions of the Bail Bondsmen Licensing Law shall be qualified as follows:

- A. be an individual not less than eighteen years of age;
- B. be a citizen of the United States;
- C. not have been convicted of a felony, with the exception of a conditional discharge of a felony conviction,

or anyone properly licensed as of January 1, 2005;

D. not be a law enforcement, adjudication, jail, court or prosecution official or an employee thereof or an attorney, official authorized to admit to bail, or state or county officer;

E. if for license as bondsman, pass a written examination testing the applicant's knowledge and competence to engage in the bail bondsman business;

F. be of good personal and business reputation;

G. if to act as a property bondsman, be financially responsible and provide the surety bond or deposit in lieu thereof as required in accordance with Section 59A-51-8 NMSA 1978;

H. if to act as a limited surety agent, be appointed by an authorized surety insurer; and

I. if for license as a solicitor, have been so appointed by a licensed bail bondsman subject to issuance of the solicitor license."

Section 3. Section 59A-51-13 NMSA 1978 (being Laws 1984, Chapter 127, Section 940, as amended) is amended to read:

"59A-51-13. PRACTICES.--

A. A bail bondsman or solicitor shall not:

(1) suggest or advise the employment of or name for employment any particular attorney to represent his

principal;

(2) pay a fee or rebate or give or promise anything of value to a jailer, policeman, peace officer, committing magistrate or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof or to secure delay or other advantage;

(3) pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(4) pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf;

(5) participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety;

(6) except for the premium received for the bond, fail to return any collateral security within a reasonable time after the termination of liability on the bond; or

(7) charge or accept anything of value except the premium on the bond and any extraterritorial recovery expenses, but the bondsman may accept collateral security or other indemnity if:

(a) such collateral security or other

indemnity is reasonable in relation to the amount of the bond;

(b) no collateral or security in tangible property is taken by pledge or debt instrument that allows retention, sale or other disposition of such property upon default of premium payment;

(c) no collateral or security interest in real property is taken by deed or any other instrument unless the bail bondsman's interest in the property is limited to one hundred percent of the amount of the bond;

(d) the collateral or security taken by the bondsman is not pledged directly to any court as security for an appearance bond; and

(e) the person from whom the collateral or security is taken is given a receipt describing the condition of the collateral or security at the time it is taken into the custody of the bondsman.

B. When a bail bondsman accepts cash as collateral, the bondsman shall deposit the cash in the bondsman's trust account and give a written receipt for same, and this receipt shall give in detail a full account of the collateral received.

C. Law enforcement, adjudication and prosecution officials and their employees, attorneys-at-law, officials authorized to admit to bail and state and county officers shall not directly or indirectly receive any benefits from the

execution of any bail bond.

D. A bail bondsman shall not sign nor countersign in blank any bond, nor shall the bondsman give a power of attorney to or otherwise authorize anyone to countersign the bondsman's name to bonds unless the person so authorized is a licensed bondsman directly employed by the bondsman giving such power of attorney.

E. No bail bond agency shall advertise as or hold itself out to be a surety insurer.

F. Every bail bondsman shall have a permanent street address and all bail bond business shall be conducted from that address.

G. Every bail bondsman shall transact all bail bond business, surety or property, in the bondsman's proper individual name or one agency name as stated on the application for license and on the license as issued by the superintendent."

Section 4. Section 59A-51-14 NMSA 1978 (being Laws 1984, Chapter 127, Section 941, as amended) is amended to read:

"59A-51-14. DENIAL, SUSPENSION, REVOCATION OR REFUSAL TO CONTINUE LICENSE.--

A. The superintendent may deny, suspend, revoke or refuse to continue any license issued under the Bail Bondsmen Licensing Law for any of the following reasons:

(1) any cause for which issuance of the license could have been refused had it then existed and been known to the superintendent;

(2) a material misstatement, misrepresentation or fraud in obtaining the license;

(3) any violation of the laws of this state relating to bail or the bail bond business;

(4) conviction of any felony, regardless of whether the conviction resulted from conduct related to the bail bond business with the exception of a conditional discharge of a felony conviction;

(5) misappropriation, conversion or unlawful withholding of money belonging to insurers or others and received in the conduct of business under the license;

(6) fraudulent or dishonest practices in the conduct of business under the license;

(7) failure to comply with, or willful violation of any provision of the Bail Bondsmen Licensing Law or proper order, rule or regulation of the superintendent or any court of this state;

(8) any activity prohibited in Section 59A-51-13 NMSA 1978;

(9) failure or refusal, upon demand, to pay over to any insurer he represented, any money coming into his hands belonging to the insurer;

(10) failure to preserve without use and retain separately or to return collateral taken as security on any bond to the principal, indemnitor or depositor of collateral when the principal, indemnitor or depositor is entitled to such collateral;

(11) for knowingly having in the bail bondsman's employ a person whose bail bond business license has been revoked, suspended or denied in this or any other state; or

(12) failure, neglect or refusal to supervise a solicitor's activities on the bail bondsman's behalf.

B. When, in the judgment of the superintendent, the licensee in the conduct of affairs under the license has demonstrated incompetency, untrustworthiness, conduct or practices rendering him unfit to engage in the bail bond business, or making his continuance in such business detrimental to the public interest, or that he is no longer in good faith engaged in the bail bond business, or that he is guilty of rebating, or offering to rebate his commissions in the case of limited surety agents or premiums in the case of professional bondsmen, and for such reasons is found by the superintendent to be a source of detriment, injury or loss to the public, he shall revoke or suspend the license.

C. In case of the suspension or revocation of license of any bail bondsman, the license of any or all other bail bondsmen who are members of the same agency and any or all solicitors employed by such agency, who knowingly were parties to the act that formed the ground for the suspension or revocation shall likewise be suspended or revoked, except for the purpose of completing pending matters, and those persons who knowingly were parties to the act are prohibited from being licensed as a member of or bail bondsman or solicitor for some other agency.

D. No license under the Bail Bondsmen Licensing Law shall be issued, renewed or permitted to exist when the same is used directly or indirectly to circumvent the provisions of the Bail Bondsmen Licensing Law."

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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